IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 21125 of 2004

Between:

A.Ashok Reddy, S/o Malla Reddy,
R/o Dandu Markapuram, Choutuppal, Nalgonda District

..... PETITIONER

AND

1. The Regional Manager, APSRTC, Ranga Reddy Region, Imblibun, Hyderabad.

2 The Depot Manager, APSRTC, Vikarabad Bus Depot, Ranga Reddy District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ more particularly one in the nature of Writ of Mandamus declaring the action of the respondent not paying the salary to the petitioner by computing the notional increments from the date of termination till the date of reinstatement (i.e.,w.e.f. 19-6-1991 to 28-2-2003) as illegal, arbitrary and unjust and consequently direct the respondents to pay the salary to the petitioner by computing the notional increments from the date of termination till the date of reinstatement (i.e.,w.e.f. 19-6-1991 to 28-2-2003)

Counsel for the Petitioner: MR.G.RAVI MOHAN

Counsel for the Respondents: MR.V.T.M.PRASAD

The Court at the admission stage, made the following :

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION NO. 21125 of 2004

ORDER:

The Petitioner was appointed as a Driver in the respondent-Corporation in the year 1989. On the allegation of rash and negligence driving, he was terminated from service through the proceedings dated 19-06-1991. Aggrieved by the said order, the petitioner filed I.D.No.105 of 2002 before the Industrial Tribunal-II, Hyderabad.. The Tribunal through its award dated 23-09-2002 directed the respondent-Corporation to reinstate the petitioner with continuity of service, but without back wages and further denied two increments with cumulative effect. Consequent to the publication of the award, the petitioner was reinstated into service on 28-02-2003. But, his pay was not fixed by adding the notional increments for the period from the date of termination till the date of reinstatement i.e., from 19-06-1991 to 28-02-2003.

The grievance of the petitioner is that the respondents did not fix his pay by adding the notional increments despite his representations from time to time.

He therefore approached this Court through this writ petition to direct the respondents to fix the pay of the petitioner by computing the notional increments that would have been earned by the petitioner had he been in service during the out of employment period i.e., from 19-06-1991 to till reinstatement and after determining such increments and on the basis of the same to fix the wages payable to the petitioner after his reinstatement and to pay the arrears in respect of the period subsequent to reinstatement.

2. The award of the lower Court indicates that on reinstatement the petitioner is entitled for continuity of service, without back wages. A Division Bench of this Court in **Regional Manager, APSRTC, Nizamabad v. B. Chander Rao** held that the employee is entitled for notional increments, in pursuance of the order of the Tribunal extending the benefit of continuity of service. The Division Bench while rendering the above decision distinguished a decision of the Supreme Court in **APSRTC & another v. S. Narasa Goud** wherein the Supreme Court held that the employee is not entitled for increments for the period of his unauthorized absence unless the same is regularized. The Division Bench relied on another judgment of the Supreme Court in **Devendra Pratap Narain Rai Sharma v. State of U.P.** and gave the above direction.

3. In the light of the judgment of the Division Bench in **B.Chander Rao** (1 supra) and in the light of the order of the Tribunal extending the benefit of the continuity of service, the petitioner is entitled to get the notional increments fixed for the purpose of fixation of his pay for the period from the date of termination till the date of reinstatement.

4. In the result, the writ petition is allowed. The respondents are directed to fix the pay of the petitioner by working out the notional increments of the petitioner for the period from the date of termination till the date of reinstatement within eight weeks from the date of receipt of a copy of this order.

Kvr November 18, 2004

To

1. The Regional Manager, APSRTC, Ranga Reddy Region, Imblibun, Hyderabad.

   2. The Depot Manager, APSRTC, Vikarabad Bus Depot, Ranga Reddy District.

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